



BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW
Petition No.1239/2017

PRESENT:

Hon'ble Sri Suresh Kumar Agarwal, Chairman
Hon'ble Sri Kaushal Kishore Sharma, Member

IN THE MATTER OF : Application for Interim Relief

Petitioners:

M/s Usher Eco Power Ltd.,
Plant at 630, Vill-Dautana, NH-2,
Delhi-Agra Highway,
Tehsil-Chhata,
Distt-Mathura (U.P.)

Respondents:

1. The Chairman,
U.P. Power Corporation Ltd.
Shakti Bhawan,
14, Ashok Marg,
Lucknow-226 001 (U.P.)
2. Director,
State Load Dispatch Centre,
Shakti Bhawan, 14 Ashok Marg,
Lucknow-226 001
3. Chief Engineer (PPA) UP Power Corporation Limited,
14th Floor, Shakti Bhawan Ext.
14-Ashok Marg, Lucknow

In the presence of:

1. Sri Lalit Chaturvedi, Usher Eco Power Ltd.



2. Sri Rajiv Srivastava, Advocate, UPPCL
3. Sri Mukesh Sharma, G.M. Power, UPPCL,
4. Sri Vikash Agarwal, Manager, Usher Eco Power Ltd.
5. Sri Mukesh Kr. Gupta, EE, SLDC
6. Sri DD Chopra, Advocate

ORDER
(Date of hearing 04.04.2018)

M/s Usher Eco Power Ltd. has filed a petition no.1239/2017 under section 86 (1) (e) and 86 (1) (f) read with other relevant provisions of the Electricity Act 2003 and other relevant regulations of UPERC.

2. In this petition the petitioner has stated that they have entered into a PPA on 08.08.2012 to supply 12 MW power from the petitioner's rice husk based RE plant situated at Vill-Dautana, NH-2, Delhi-Agra Highway, Tehsil-Chhata, Distt. Mathura (U.P.). The petitioner has further stated that they have been supplying electricity to UPPCL since 2012 on regular basis without any complaint but on 01.07.2017 the respondent no.2, State Load Dispatch Centre issued verbal directions to the petitioner to stop with immediate effect the injection of electricity generated from the petitioner's plant without assigning any reason.

4. The Petitioner had moved an application to grant an interim relief in the matter. The Commission heard the case on 10.11.17 and directed UPPCL to file counter affidavit in a weeks time and make payment against supply for the period prior to July 2017. The Petitioner was allowed to run the plant at provisional tariff of Rs.5.56 per unit during the pendency of the petition subject to final outcome on the rates. The interim relief was not granted.

5. In the hearing on 20.3.2018 on the request of UPPCL they were granted one week time to file the reply and the case was fixed for 4.4.2018. UPPCL did not file any counter affidavit but argued the case. Ms. Varalika Dubey, Chief Engineer (PPA) for Renewable Power Purchase, UPPCL argued that the PPA provides for taking the power as per the requirement of UPPCL. She also argued that the tariff for this plant was approved in CRE Regulations 2014 as generic tariff. The Commission asked the Chief Engineer (PPA) that at what rate UPPCL is purchasing the electricity from the Petitioner after 2014. She replied that the power is being procured at the rates fixed by the Commission in CRE Regulations 2014. The Commission found that the PPA also has a provision that from 2014 the energy will be purchased at the rates announced in the CRE Regulations 2014. Chief Engineer (PPA) also argued that due to their bad financial position they are finding it difficult to purchase the electricity at the rates given in CRE Regulations, 2014.



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6. As per MOD order dated 21.6.2016 the Biomass plants are in the category of must run till the RPO obligation regarding non-solar power is fulfilled by UPPCL. As per the information submitted in the Commission the RPO obligations have not yet been fulfilled by UPPCL, therefore this plant continuous to be in the category of must run.
 7. Regarding rates at which the power will be procured, it is clearly indicated in the PPA that from 2014 the rates provided in CRE Regulations 2014 shall apply. The Commission is bound to maintain the sanctity of the PPA, but both the parties have freedom to renegotiate the rates. But in the instant case the Petitioner is not willing to reduce the rates and has come before the Commission for implementation of the PPA. In the existing PPA the Commission cannot direct to reduce the rates committed in the PPA.
 8. Keeping in view the provisions of the PPA and the status of the plant being in must run category the Commission directs to procure power from the said plant as per clause 2 of the PPA.
 9. The petition no.1239 of 2017 is disposed of with the above directions.

(K.K. Sharma)
Member

(Suresh Kumar Agarwal)
Chairman

Place: Lucknow
Dated:04.04.2018